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In re Application of
Huylebroeck et al.
Serial No. : 10/028,396
Filed : December 21,2001
Attorney Dkt No. : 2676-5174US

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 12 October 2004, to request reconsideration of the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

Applicants filed the instant application on December 21, 2001, with 17 claims. A restriction requirement was made on 10/23/2003, in which the examiner restricted the claims into 21 distinct Groups. The restriction was based on the identification of the different inventions drawn to the use of one of four different nucleic acid sequences in a process of identifying transcription factors (Groups I-IV), a method for identifying compounds with an interference capability towards transcription (Groups V-VIII), a pharmaceutical compound (Group IX), a polynucleotide sequence (Groups X-XIII), a method for detecting an interaction between two proteins (Groups XIV-XVII), and a method for identifying a new target gene (Groups XVIII-XXI). On 1/10/2003 applicants

elected with traverse to prosecute the claims of Groups I, claims 1 through 6, drawn to the sequence CAACCTNCACCT (SEQ ID No 1 and a second SEQ ID NO 1 separated by an N). On 3/12/2004 applicants' election was acknowledged and a first action on the merits was sent to applicants. On 6/18/2004, applicants amended the claims and argued the rejections made of record. On 9/16/2004 a non-final rejection was sent to applicants. On 10/12/2004 applicants filed the instant petition request asking that the restriction requirement between Groups I-IV be reviewed and reconsidered.

DISCUSSION

The application, prosecution history and petition have been reviewed and carefully considered. Applicants petition under 37 C.F.R. 1.144, to reconsider the restriction requirement be withdrawn as improper with respect to the Groups identified as Groups I-IV is considered moot in light of applicants cancellation of all claims of Groups II-IV. No claims of Groups II-IV, nor any claims linking original Groups I-IV currently exist. Claims 2-4 are drawn to a process of identifying transcription factors such as activators and/or repressors comprising the use of a nucleic acid sequence comprising CAACCTNCACCT (SEQ ID No 1 and a second SEQ ID NO 1 separated by an N) (Group I).

DECISION

For the reasons set forth above, the Petition under 37 C.F.R. 1.144 to withdraw the restriction requirement between Groups I-IV is **DISMISSED** in view of the fact that no claims of original Groups II-IV are currently pending.

Any request for consideration of this petition decision must be filed within two (2) months of the mailing date of this decision.

This application will be forwarded to the Examiner for consideration of the Amendment filed 20 December 2004.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.



Jasmine Chambers

Director, Technology Center 1600